

Steven F. Alder (0033)  
Cameron B. Johnson (13996)  
Assistant Attorneys General  
JOHN E. SWALLOW (5802)  
UTAH ATTORNEY GENERAL  
1594 West North Temple, #300  
SALT LAKE CITY UT 84116  
Telephone (801) 538-7227  
*Attorneys for Division of Oil, Gas & Mining*

**FILED**

**JUN 10 2013**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

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**BEFORE THE BOARD OF OIL, GAS & MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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NOTICE OF AGENCY ACTION FOR AN ORDER REQUIRING MARION ENERGY TO PLUG AND RECLAIM WELLS; OR FORFEIT SURETY BOND AND AUTHORIZE THE DIVISION TO PLUG AND RECLAIM WELLS LOCATED IN TOWNSHIPS 13 AND 14 SOUTH, RANGE 7 EAST, CARBON COUNTY, UTAH; AND AN ORDER REQUIRING MARION ENERGY TO IMMEDIATELY COMPLY WITH THE NOTICE OF VIOLATION FOR THE WELLS LOCATED IN TOWNSHIPS 12, 13, AND 14 SOUTH, RANGES 7 AND 10 EAST, CARBON COUNTY, UTAH.

**DIVISION'S STATEMENT OF FACTS  
AND ARGUMENT  
REGARDING  
ORDER TO SHOW CAUSE**

Docket No. 2011-018

Cause No. 250-02

The Division of Oil, Gas and Mining ("Division") hereby submits the following statement of facts and argument regarding the Board of Oil, Gas and Mining's ("Board") Supplemental Order issued on October 26, 2012 requiring that Marion Energy ("Marion") appear at the Board's June 26, 2013 hearing and show cause why the Board's September 10, 2012 Order that the Oman 2-20 well be plugged should not be implemented.

**STATEMENT OF FACTS**

The Division filed its original Notice of Agency Action (“NOAA”) in this matter on September 12, 2011 seeking an Order requiring that certain wells including the Oman 2-20 be plugged in accordance with the applicable rules due to the failure of Marion to comply with the terms of a Stipulated Order entered on May 24, 2006. The NOAA was continued based on a further stipulation that allowed Marion time to obtain funding to operate the wells provided certain requirements and a time table for eventually plugging or producing from the wells was met. Ultimately, Marion did not meet the conditions to avoid a Stipulation to Judgment and the Board entered an Order on September 12, 2012 forfeiting the surety and requiring the Division to plug and reclaim the wells including the Oman 2-20. At its October 26, 2012 hearing upon consideration of an extra ordinary motion by Marion, the Board entered a Supplemental Order that stayed implementation of the September 10, 2012 Order as it pertained to the Oman 2-20 well until June 26, 2013 provided Marion comply with the following conditions:

- a. Deposit \$30,000 in cash with the Division by 5:00 p.m. on Monday, October 29, 2012, in addition to the Division’s forfeited reclamation funds;
- b. Perform mechanical integrity tests and demonstrated mechanical integrity to the Division, with respect to:
  - i. The water injection well prior to using such well;
  - ii. The water disposal line between the Oman 2-20 well and the water disposal well prior to using such water disposal line; and
- c. Show cause why the September 12, 2012 Order to plug the well should not be implemented as to the Oman 2-20 well. (see Supplemental Order attached as Exhibit A)

The Division acknowledges the receipt of the \$30,000.00 in additional bonding and the completion of mechanical integrity tests demonstrating mechanical integrity of the water injection well prior to use of the well and of the water disposal line between the Oman 2-20 and the disposal well. Marion has also submitted information about the testing pressures for the Oman 2-20 and records of water and gas production from the well as shown on the attached Exhibit B.

### **ARGUMENT**

For a well to be shut-in for more than one year an operator must provide the reasons to allow the well to remain shut-in and must provide information that shows that there is well integrity and that the well is not a risk to public health and safety or the environment. Utah Admin. Code R649-3-36(1.3). After a well has been inactive for over five years the well “shall be plugged . . . unless approval is given . . . upon a showing of good cause by the operator.” Utah Admin. Code R649-3-36(3). Good cause is undefined within the Division’s regulations. However, the Utah Supreme Court has held that an operator has the affirmative duty to provide sufficient evidence to satisfy the requirements of these rules, and that an extension of time for the purpose of determining the interest of a third party in operating the wells is not sufficient “good cause”. *Road Runner Oil, Inc. v. Board of Oil, Gas and Min.*, 76 P.3d 692, ¶ 20 (Utah Ct. App. 2003). The Oman 2-20 was drilled in 1996 and did produce water and some gas for a period of time between 2009 and 2011.

Since the October 28, 2012 Supplemental Order, Marion has provided the Division with pressure measurements for the well and production information for the month of April. Arguably the well is no longer shut-in and is producing although it is producing in commercially

viable quantities and Marion is not selling any of the produced gas. Marion has the burden of demonstrating “good cause” for not plugging the well.

If at the hearing, the Board finds that Marion has presented sufficient evidence to find good cause not to plug the well, then the Board should amend its September 12, 2012 Order to affirm that Marion remains the operator of the well and is responsible for all operations, reporting, and eventual plugging and reclamation of the well site together with any other conditions the Board finds appropriate.

DATED this 10<sup>th</sup> day of June, 2013.



Steven F. Alder  
Cameron B. Johnson  
Assistant Attorneys General  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84116  
(801) 538-5277

**CERTIFICATE OF NOTICE**

I hereby certify that on the 10<sup>th</sup> day of June, 2013 I caused a true and correct copy of the foregoing DIVISION'S STATEMENT OF FACTS AND ARGUMENT REGARDING THE ORDER TO SHOW CAUSE for Docket No. 2011-018, Cause No. 250-02 to be delivered to the following:

Michael Malmquist  
PARSONS, BEHLE & LATIMER  
Attorneys for Marion energy  
201 South Main St. # 1800  
Salt Lake City, UT 84111  
MMalmquist@pasonsbehle.com

A handwritten signature in blue ink, appearing to read "SF Allen", is written over a horizontal line.

# Exhibit A

**FILED**

OCT 31 2012

**BEFORE THE BOARD OF OIL, GAS & MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

NOTICE OF AGENCY ACTION FOR AN ORDER REQUIRING MARION ENERGY TO PLUG AND RECLAIM WELLS; OR FORFEIT SURETY BOND AND AUTHORIZE THE DIVISION TO PLUG AND RECLAIM WELLS LOCATED IN TOWNSHIPS 13 AND 14 SOUTH, RANGE 7 EAST, CARBON COUNTY, UTAH; AND AN ORDER REQUIRING MARION ENERGY TO IMMEDIATELY COMPLY WITH THE NOTICE OF VIOLATION FOR THE WELLS LOCATED IN TOWNSHIPS 12, 13, AND 14 SOUTH, RANGES 7 AND 10 EAST, CARBON COUNTY, UTAH.

**SUPPLEMENTAL ORDER**

Docket No. 2011-018

Cause No. 250-02

The above-captioned matter came before the Board on October 24, 2013 in response to the motion of Respondent Marion Energy for an expedited hearing on its Request For Authorization To Immediately Re-Enter, Test and Produce The Oman 2-20 Well filed on October 22, 2012 (the "Request"). Pursuant to the Request, Marion seeks modification of the Board's September 10, 2012 Findings of Fact, Conclusions of Law and Order (the "Order") forfeiting Marion's existing bond and directing the Division to plug and abandon certain wells (including the Oman 2-20). Marion requests that the Order be modified to suspend the directive that the Division plug the Oman 2-20 well, and to permit Marion to immediately re-enter, test and produce the well for the purpose of complying with a BLM deadline and preventing termination of the Clear Creek Unit. *See* Request at 1-2 and 4.

The Board, having considered Marion's Request and having heard testimony and oral argument from the parties at its October 24, 2012 hearing, rules as follows:

1. Implementation of the Order as to the Oman 2-20 well will be delayed until June 26, 2013 (the date of the Board's regularly-scheduled June 2013 hearing), and Marion will be permitted to immediately re-enter, test and produce the Oman 2-20 well, provided that:
  - a. Marion deposit with the Division \$30,000.00 in cash by 5:00 p.m. on Monday, October 29, 2012, to be added to the forfeited reclamation funds already held by the Division as discussed more fully in the Order;
  - b. Marion shall have until the Board's June 26, 2013 hearing date to show cause why the Order should not be implemented as to the Oman 2-20 well;
  - c. Marion shall perform mechanical integrity tests, and demonstrate mechanical integrity to the Division, with respect to:
    - (i) the water injection well prior to using such well; and
    - (ii) the water disposal line between the Oman 2-20 well and the water disposal well prior to using such water disposal line.

The above modifications to the Order were announced orally at the Board's October 24, 2012 hearing, and Marion indicated it agreed to such terms being placed on its right to immediately re-enter the Oman 2-20 well.

2. The Board has considered and decided this matter as a formal adjudication, pursuant to the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-204 through 208, and of the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641.



3. This Order is based exclusively upon evidence of record in this proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, as required by the Utah Administrative Procedures Act, Utah Code Ann. § 63G-4-208, and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641-109; and constitutes a final agency action as defined in the Utah Administrative Procedures Act and Board rules.

4. **Notice of Right of Judicial Review by the Supreme Court of the State of Utah.** As required by Utah Code Ann. § 63-G-4-208(e) through (g), the Board hereby notifies all parties to this proceeding that they have the right to seek judicial review of this Order by filing an appeal with the Supreme Court of the State of Utah within 30 days after the date this Order is entered. Utah Code Ann. § 63G-4-401(3)(a) and 403.

5. **Notice of Right to Petition for Reconsideration.** As an alternative, but not as a prerequisite to judicial review, the Board hereby notifies all parties to this proceeding that they may apply for reconsideration of this Order. Utah Code Ann. § 63G-4-302. The Utah Administrative Procedures Act provides:

(1) (a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

- (3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.
- (b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied. *Id.*

The Rules of Practice and Procedure before the Board of Oil, Gas and Mining entitled “Rehearing and Modification of Existing Orders” state:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month. Utah Admin. Code R641-110-100.

The Board hereby rules that should there be any conflict between the deadlines provided in the Utah Administrative Procedures Act and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the aggrieved party may seek judicial review of the order by perfecting an appeal with the Utah Supreme Court within 30 days thereafter.

6. The Board retains exclusive and continuing jurisdiction of all matters covered by this Order and of all parties affected thereby; and specifically, the Board retains and reserves exclusive and continuing jurisdiction to make further orders as appropriate and authorized by statute and applicable regulations.

7. The Chairman’s signature on a facsimile copy of this Order shall be deemed the

equivalent of a signed original for all purposes.

DATED this 26<sup>th</sup> day of October, 2012.

STATE OF UTAH  
BOARD OF OIL, GAS, AND MINING

By: James T. Jensen  
James T. Jensen, Chairman

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing SUPPLEMENTAL ORDER for Docket No. 2011-018, Cause No. 250-02 to be mailed with postage prepaid to the addresses shown, and emailed to the email addresses shown, this 1 day of ~~October~~ November 2012, to the following:

Michael Malmquist  
Parsons Behle & Latimer  
Attorneys for Marion Energy  
201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
MMalmquist@parsonsbehle.com - emailed Oct. 26, 2012

Steve Alder, Assistant Attorney General  
Utah Attorney General's Office  
1594 W. North Temple, Suite 300  
Salt Lake City, Utah 84116  
stevealder@utah.gov - emailed Oct. 26, 2012

U.S. Specialty Insurance Company  
13403 Northwest Freeway  
Houston, Texas 77040

Julie Ann Carter

# Exhibit B

STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

FORM 9

SUNDRY NOTICES AND REPORTS ON WELLS

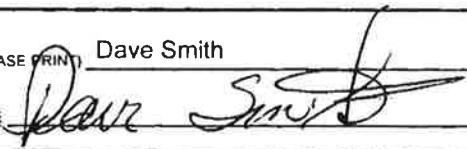
Do not use this form for proposals to drill new wells, significantly deepen existing wells below current bottom-hole depth, reenter plugged wells, or to drill horizontal laterals. Use APPLICATION FOR PERMIT TO DRILL form for such proposals.

1 TYPE OF WELL OIL WELL <input type="checkbox"/> GAS WELL <input checked="" type="checkbox"/> OTHER _____		5. LEASE DESIGNATION AND SERIAL NUMBER:
2 NAME OF OPERATOR Marion Energy, Inc.		6. IF INDIAN, ALLOTTEE OR TRIBE NAME
3 ADDRESS OF OPERATOR 31 No. Main St. Helper UT 84526		7. UNIT or CA AGREEMENT NAME
4 LOCATION OF WELL FOOTAGES AT SURFACE _____		8. WELL NAME and NUMBER Kenilworth/Cordingly Canyon
QTR/QR. SECTION TOWNSHIP, RANGE MERIDIAN _____		9. API NUMBER
COUNTY Carbon		10. FIELD AND POOL OR WILDCAT Kenilworth
STATE UTAH		

11 CHECK APPROPRIATE BOXES TO INDICATE NATURE OF NOTICE, REPORT, OR OTHER DATA			
TYPE OF SUBMISSION	TYPE OF ACTION		
<input type="checkbox"/> NOTICE OF INTENT (Submit in Duplicate) Approximate date work will start: _____	<input type="checkbox"/> ACIDIZE	<input type="checkbox"/> DEEPEN	<input type="checkbox"/> REPERFORATE CURRENT FORMATION
	<input type="checkbox"/> ALTER CASING	<input type="checkbox"/> FRACTURE TREAT	<input type="checkbox"/> SIDETRACK TO REPAIR WELL
	<input type="checkbox"/> CASING REPAIR	<input type="checkbox"/> NEW CONSTRUCTION	<input type="checkbox"/> TEMPORARILY ABANDON
	<input type="checkbox"/> CHANGE TO PREVIOUS PLANS	<input type="checkbox"/> OPERATOR CHANGE	<input type="checkbox"/> TUBING REPAIR
	<input type="checkbox"/> CHANGE TUBING	<input type="checkbox"/> PLUG AND ABANDON	<input type="checkbox"/> VENT OR FLARE
<input checked="" type="checkbox"/> SUBSEQUENT REPORT (Submit Original Form Only) Date of work completion: _____	<input type="checkbox"/> CHANGE WELL NAME	<input type="checkbox"/> PLUG BACK	<input type="checkbox"/> WATER DISPOSAL
	<input type="checkbox"/> CHANGE WELL STATUS	<input type="checkbox"/> PRODUCTION (START/RESUME)	<input type="checkbox"/> WATER SHUT-OFF
	<input type="checkbox"/> COMMINGLE PRODUCING FORMATIONS	<input type="checkbox"/> RECLAMATION OF WELL SITE	<input type="checkbox"/> OTHER _____
	<input type="checkbox"/> CONVERT WELL TYPE	<input type="checkbox"/> RECOMPLETE - DIFFERENT FORMATION	

12 DESCRIBE PROPOSED OR COMPLETED OPERATIONS Clearly show all pertinent details including dates, depths, volumes, etc.

See attached documents. Pressures and water and gas for April.

NAME (PLEASE PRINT) Dave Smith	TITLE Construction/Maintenance
SIGNATURE 	DATE 5/1/2013

(This space for State use only)

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Kenilworth/Cordingly

Pressures

15-1

Tubing	0	Casing	5
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15-5

Tubing	0	Casing	0
--------	---	--------	---

15-2

Tubing	0	Casing	0
--------	---	--------	---

10-1

Tubing	0	Casing	15
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Cordingly 11-1

Tubing	0	Casing	80
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Kenilworth RR 1-A

Tubing	400	Casing	1400
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Kenilworth RR 1

Tubing	20	Casing	20
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15-3

Tubing	20	Casing	50
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Ball Park 1

Tubing	0	Casing	0
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Kenilworth RR 2

Tubing	0	Casing	0
--------	---	--------	---

16-2 Not Drilled

17-2 Not Drilled

Kenilworth RR 15-4 Not Drilled

STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

FORM 9

SUNDRY NOTICES AND REPORTS ON WELLS

Do not use this form for proposals to drill new wells, significantly deepen existing wells below current bottom-hole depth, reenter plugged wells, or to drill horizontal laterals. Use APPLICATION FOR PERMIT TO DRILL form for such proposals.

5. LEASE DESIGNATION AND SERIAL NUMBER

6. IF INDIAN, ALLOTTEE OR TRIBE NAME

7. UNIT or CA AGREEMENT NAME

8. WELL NAME and NUMBER

9. API NUMBER

10. FIELD AND POOL, OR WILDCAT  
Clear Creek, Utah

1. TYPE OF WELL  
OIL WELL ☐ GAS WELL ☒ OTHER \_\_\_\_\_

2. NAME OF OPERATOR  
Marion Energy, Inc.

3. ADDRESS OF OPERATOR  
31 No. Main St. Helper UT 84526  
PHONE NUMBER: (435) 650-3923

4. LOCATION OF WELL  
FOOTAGES AT SURFACE COUNTY Carbon

QTR/QTR, SECTION, TOWNSHIP, RANGE, MERIDIAN STATE UTAH

11. CHECK APPROPRIATE BOXES TO INDICATE NATURE OF NOTICE, REPORT, OR OTHER DATA

TYPE OF SUBMISSION	TYPE OF ACTION		
<input type="checkbox"/> NOTICE OF INTENT (Submit in Duplicate) Approximate date work will start _____	<input type="checkbox"/> ACIDIZE	<input type="checkbox"/> DEEPEN	<input type="checkbox"/> REPERFORATE CURRENT FORMATION
	<input type="checkbox"/> ALTER CASING	<input type="checkbox"/> FRACTURE TREAT	<input type="checkbox"/> SIDETRACK TO REPAIR WELL
	<input type="checkbox"/> CASING REPAIR	<input type="checkbox"/> NEW CONSTRUCTION	<input type="checkbox"/> TEMPORARILY ABANDON
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<input checked="" type="checkbox"/> SUBSEQUENT REPORT (Submit Original Form Only) Date of work completion _____	<input type="checkbox"/> CHANGE WELL NAME	<input type="checkbox"/> PLUG BACK	<input type="checkbox"/> WATER DISPOSAL
	<input type="checkbox"/> CHANGE WELL STATUS	<input type="checkbox"/> PRODUCTION (START/RESUME)	<input type="checkbox"/> WATER SHUT-OFF
	<input type="checkbox"/> COMMINGLE PRODUCING FORMATIONS	<input type="checkbox"/> RECLAMATION OF WELL SITE	<input type="checkbox"/> OTHER: _____
	<input type="checkbox"/> CONVERT WELL TYPE	<input type="checkbox"/> RECOMPLETE - DIFFERENT FORMATION	

12. DESCRIBE PROPOSED OR COMPLETED OPERATIONS. Clearly show all pertinent details including dates, depths, volumes, etc.

See attached documents. Pressures and water and gas for April.

NAME (PLEASE PRINT) Dave Smith

TITLE Construction/Maintenance

SIGNATURE

DATE 5/1/2013

(This space for State use only)

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Clear Creek

10 29

Tubing	0	Casing	0
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Oman 2-20

Tubing	110	Casing	90
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6-17

Tubing	0	Casing	0
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April water and gas sundry

Date	Water BBLS	Gas MCF
1	282	
2	257	
3	261	
4	260	
5	281	
6	286	
7	287	
8	280	
9	269	
10	205	
11	277	
12	286	
13	283	
14	290	
15	283	
16	83	
17	0	
18	0	
19	217	4.2
20	224	0
21	305	.5
22	327	.57

23	276	.56
24	232	.017
25	263	.611
26	214	.7
28	168	.5
29	203	.53
30	168	11

Totals	water 5,977	gas 14.9
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